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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,285	07/30/2001	David A. Stampe	38515.06	2415

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EXAMINER

HAYES, BRET C

#2

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 03/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/918,285

Applicant(s)

STAMPE, DAVID A.

Examiner

Bret C Hayes

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☒ Claim(s) 7, 8, 13 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "10" and "12" have both been used to designate the indicator layer.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "10" and "36" have both been used to designate an indicator.
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "18" has been used to designate both a liner and a rubber-based permanent adhesive.
4. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Specification*

5. The spacing of the lines of the specification is such as to make reading and entry of amendments difficult. New application papers with lines double spaced on good quality paper are required.
6. The disclosure is objected to because of the following informalities: page 1, pp 3, line 8, the word "it" should be the --cow--; pp 5, lines 5 and 6, --indicator-- should be placed between "heat" and "includes"; page 3, lines 24 and 25, "adhesive" and "floodcoat" should be followed by their respective reference characters; page 4, lines 12 and 13, "In order for removal of the floodcoat layer... ..the floodcoat layer is preferably an opaque layer..." the importance is unclear of what having an opaque layer is to the removal of the layer; page 5, line 2, reference

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character "22" has been used to designate both a vinyl substrate and a vinyl sheet; lines 3 and 6 vinyl sheet and vinyl substrate, whichever one applicant chooses to call it, should be followed by its respective reference character; line 15, "may configured" should be --may be configured--; and line 31, "heiver" should be --heifer--.

Appropriate correction is required.

***Claim Objections***

7. Claim 7 is objected to because of the following informalities: line 2, "the application" should be --application--.

8. Claim 8 is objected to because of the following informalities: line 1, "indicators" should be --indicator--; and line 9, "are" should be --is--.

9. Claim 13 is objected to because of the following informalities: line 9, "the application" should be --application--.

10. Claim 14 is objected to because of the following informalities: line 4, "a plurality" should be --the plurality--.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. Claims 1 – 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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13. Claim 1 recites the limitation "the apparatus" in lines 2 and 3. There is insufficient antecedent basis for this limitation in the claim.

14. Regarding claims 2 – 7, any claims dependent upon a claim determined to fail to particularly point out and distinctly claim the subject matter which applicant regards as the invention are also indefinite.

15. Regarding claim 7, the subsequent reference to "a second animal" is indefinite because "a second animal" is recited in claim 1, upon which this claim depends.

16. Regarding claim 8, "estrus indicators apparatuses" is unclear to which the applicant is referring as the plurality.

17. Regarding claim 8, the subsequent reference to "a plurality" is indefinite because "a plurality" is recited in line 1 of the claim.

18. Claim 8 recites the limitation "the plurality" in lines 8 and 9. There is insufficient antecedent basis for this limitation in the claim.

19. Regarding claims 9 – 12, any claims dependent upon a claim determined to fail to particularly point out and distinctly claim the subject matter which applicant regards as the invention are also indefinite.

20. Claim 10 recites the limitation "the plurality" in line 1. There is insufficient antecedent basis for this limitation in the claim.

21. Claim 11 recites the limitation "the plurality" in line 1. There is insufficient antecedent basis for this limitation in the claim.

22. Claim 13 recites the limitation "the apparatus" in lines 2 and 4. There is insufficient antecedent basis for this limitation in the claim.

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23. Regarding claim 14, "estrus indicators apparatuses" is unclear to which the applicant is referring as the plurality.

24. Claim 14 recites the limitation "the indicator sheet" in line 10. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

25. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

26. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,839,390 to Meads in view of 4,206,766 to Bielka. Meads discloses the invention substantially as claimed. However, Meads does not disclose the floodcoat layer being removably affixed to the indicator layer.

27. Bielka teaches an outer cover falling away; see abstract, line 7.

28. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the signal device of Meads in view of the teaching of Bielka in order to have a removably affixed floodcoat layer.

***Allowable Subject Matter***

29. Claims 2 – 14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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*Conclusion*

30. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent Nos. 5,881,673 to Beach et al., 5,566,679 to Herriott, 4,895,165 to Blair, 4,846,106 to Leonardo (Leonardo I), 4,685,421 to Colburn, Jr., 4,635,587 to Leonardo (Leonardo II), 4,239,018 to Griffin et al. and 3,942,475 to Wassilieff et al.

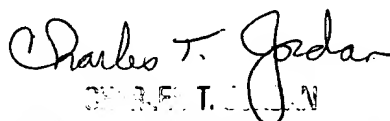
31. Beach et al. disclose a heat detection system, Herriott discloses methods for managing the reproductive status of an animal using color heat mount detectors, Blair discloses an electronic estrus detector, Leonardo I discloses a method and apparatus for detecting standing heat in cattle, Colburn, Jr. discloses a cattle/ewe estrus detector device, Leonardo II discloses a method and apparatus for detecting standing heat in cattle, Griffin et al. disclose a heat detector for livestock, and Wassilieff et al. disclose devices for oestrus detection.

32. Any inquiry concerning this communication should be directed to Bret Hayes at telephone number (703) 306-0553. The examiner can normally be reached Monday through Thursday and alternating Fridays from 7:00 am to 4:30 pm, Eastern Standard Time.

33. If attempts to contact the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Jordan, can be reached at (703) 306-4159. The fax number for this group is (703) 305-7687.

bh

2/28/02

  
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